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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA *ex rel.*
KENNETH COTE and JOHN FERGUSON,

Plaintiff,

v.

CITIZENS BANK, N.A.,

Defendant.

16 Civ. 3121 (GHW)

UNDER SEAL

NOTICE OF ELECTION TO DECLINE INTERVENTION

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States hereby respectfully notifies the Court of its decision not to intervene in this action.

Although the United States declines to intervene, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows the relators to maintain the action in the name of the United States; providing, however, that the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” *Id.* Therefore, the United States respectfully requests that, should the relators or the defendant propose that this action be dismissed, settled, or otherwise discontinued, the moving party (or

parties) be required to solicit the written consent of the United States before applying for Court approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings and briefs filed in this action be served upon the United States. The United States further requests that the Court direct the relators' counsel to serve on the Government any orders issued by the Court. The United States reserves its right to order any deposition transcripts, to intervene in this action, for good cause, at a later date, and to seek the dismissal of the relators' action or claims under 31 U.S.C.

§ 3730(e)(4).

The United States also respectfully requests that it be served with all notices of appeal.

Dated: January 28, 2019
New York, New York

Respectfully submitted,

GEOFFREY S. BERMAN
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